

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated July 29, 2008. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

Claims 1-11 are pending in the Application.

Applicants appreciate the acknowledgement of the claim for foreign priority. A certified copy of the priority document will be submitted under separate cover from this amendment.

The Applicants further appreciate the indication that claims 9-11 are allowed and that claims 3, 6 and 7 are allowable if amended to be in independent form.

In the Final Office Action, the suggestion to add section headings to the specification is maintained. Applicants gratefully acknowledge the suggestion, however again respectfully decline to add the headings as they are not required in accordance with MPEP §608.01(a) or 37 C.F.R. 1.77(b) for that matter and may be inappropriately utilized in interpreting claim recitations. It is respectfully submitted that "should" (as recited in MPEP §608.01(a), 37 C.F.R. 1.77(b) and referred to on page 2, of the Office Action) is suggestive or permissive, and not mandatory as in

"must" or "shall". For example, 37 CFR 1.77(b) recites:

The specification should include the following sections in order: (Emphasis added)

Similarly, 37 CFR 1.77(c) recites:

The text of the specification sections defined in paragraphs (b) (1) through (b) (12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type. (Emphasis added)

By contrast, 37 CFR 1.77(b) (5) recites:

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e) (5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified. (Emphasis added)

Thus, it is respectfully submitted that a distinction is made between "should" and "shall", where "should" is permissive, and "shall" is mandatory. Accordingly, it is respectfully submitted that headings are not required in accordance with MPEP §608.01(a). Accordingly, an indication that the specification is in proper form is respectfully requested.

In the Final Office Action, claims 1, 4 and 5 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,254,044 to Lee ("Lee"). Claims 2 and 8 are rejected under 35

U.S.C. §103(a) as allegedly unpatentable over Lee. It is respectfully submitted that claims 1-8 are allowable over Lee for at least the following reasons.

In a Response to Argument section of the Final Office Action, it is stated that the arguments provided in the amendment submitted on May 13, 2008 were not persuasive. Specifically, it is stated that "Lee shows the legs 16 resting on the same plane on both the rest position (Fig 2) and the operational position (Fig 6), while the support (14) changes from a parallel position to the legs (Fig 2) to an away position (Fig 6)." While this statement is true, as most stands will generally rest in a single plane (a surface) in both of an open and closed position, this position ignores that claim 1, refers to a particular plane that "extends . . . substantially parallel to the legs"

As clear from Lee, in FIG. 2, the plane referenced in the Final Office Action, namely the plane that the legs may rest on, is substantially perpendicular to the direction that the legs extend. As should be clear from FIG. 2, the plane that the legs rest upon is not substantially parallel to the direction that the legs extend. In FIG. 6., the legs extend at an oblique angle with reference to the plane that the legs rest upon. However, as is

clear from FIG. 6, the plane that the legs rest upon is not substantially parallel to the direction that the legs extend.

Accordingly, it is respectfully submitted that the stand of claim 1 is not anticipated or made obvious by the teachings of Lee. For example, Lee does not disclose or suggest, a stand that amongst other patentable elements, comprises (illustrative emphasis added) "a longitudinally extending support which is carried by two legs, each leg being connected to the support via a journal having a central axis, said stand being foldable between an operational position, in which the legs extend in one plane the support extends away from said plane, and a rest position in which the legs extend in said plane and the support also extends in said plane substantially parallel to the legs, wherein a housing is provided to which the support is fixedly mounted, and a coupling element is provided in said housing for rotationally coupling the central axes of the journals of the legs at an angle relative to each other, wherein the coupling element and the journals together are configured to maintain the legs in said one plane while the stand is adjusted between the rest and operational positions" as recited in claim 1.

Based on the foregoing, the Applicants respectfully submit that independent claim 1 is patentable over Lee and notice to this effect is earnestly solicited. Claims 2-8 depend from claim 1 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By Gregory L. Thorne

Gregory L. Thorne, Reg. 39,398  
Attorney for Applicant(s)  
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**THORNE & HALAJIAN, LLP**  
Applied Technology Center  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101